

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BOBBY HERRING, JR.

versus

SAM L. STOLBUN, *et al.*

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CIVIL ACTION NO. H-07-1837

**ORDER GRANTING
PLAINTIFFS' MOTION FOR CLASS NOTICE AND EXPEDITED DISCOVERY**

The Court finds that Plaintiffs have demonstrated that they are similarly situated to other employees of Defendants with respect to the payroll practices in question. The Court further approves the two versions of the proposed Important Notice to Potential Class Members Regarding Overtime Pay (for Class 1 and Class 2) and Opt-In Consent forms (for Class 1 and Class 2) submitted jointly by the parties on Tuesday, February 5, 2008.

Therefore, Plaintiffs' Motion for Class Notice and Expedited Discovery (**Instrument No. 35**) is **GRANTED**.

Furthermore, the Court conditionally certifies this matter as a collective action pursuant to 29 U.S.C. § 216(b) with respect to employees of the following two classes: a) Class 1: all current and former salaried employees who currently work or have worked in the MAINTENANCE DEPARTMENT at the Sugar Land, Texas, facility for the benefit of Defendants at any time from June 1, 2004 to the present; and b) Class 2: all current and former employees who were paid by the hour, and currently work or have worked in any of the following departments: PRODUCTION, SANITATION, MAINTENANCE, AND/OR WAREHOUSE/ SHIPPING at the Sugar Land, Texas, facility for the benefit of Defendants at any time from June 1, 2004 to the present.

Accordingly, the Defendants shall provide counsel for Plaintiffs with the names, addresses of a) all current and former salaried employees of Defendants who currently work or have worked in the MAINTENANCE DEPARTMENT at the Sugar Land, Texas, facility for the benefit of Defendants at any time from June 1, 2004 to the present; and b) all current and former employees who were paid by the hour, and currently work or have worked in any of the following departments: PRODUCTION, SANITATION, MAINTENANCE, AND/OR WAREHOUSE/SHIPPING at the Sugar Land, Texas, facility for the benefit of Defendants at any time from June 1, 2004 to the present.

Defendants shall produce this information to Plaintiffs' counsel in complete and accurate form no later than ten (10) days from the date this order is signed. An employee of each Defendant (or the Defendant himself) shall verify their response in accordance with F.R.C.P. 33(b)(5) by affixing their signature thereto which will attest that the list is true and complete and that a thorough search has been performed for all information referenced in this Order.

Plaintiffs' counsel shall mail a copy of the "Important Notice to Potential Class Members Regarding Overtime Pay" and "Opt-In Consent Form" to all persons contained on the list within fifteen (15) business days of receiving the list from Defendant. Plaintiffs' counsel shall include a self-addressed stamped envelope in the mailing. Plaintiffs' counsel shall also include a Spanish translated version of the "Important Notice to Potential Class Members Regarding Overtime Pay" and "Opt-In Consent Form".


The class members shall have 60 days from the date of mailing of the Notice to file their Opt-In Consent Form opting in to this lawsuit as Plaintiffs, unless good cause can be shown as to why the consent was not postmarked prior to the deadline.

Further, each Defendant is hereby prohibited from communicating, directly or indirectly, with any current or former salaried employee in the Maintenance Department, and with any current or former hourly paid employee in the Production, Sanitation, Maintenance, and Warehouse/Shipping Departments at the Sugar Land, Texas, facility of Defendants, about any matters that touch or concern the settlement of any outstanding wage claims or other matters related to this suit from the date this Order is signed.

Apart from the mailing of the Court approved notices, Plaintiff's counsel is precluded from communicating with any potential opt-in Plaintiffs during the opt-in period unless the potential plaintiff communicates with them first and consent to the further communication.

The Clerk shall enter this Order and provide a copy to all parties.

SIGNED on this the 12th day of February, at Houston, Texas.



VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE